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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,467	04/16/2001	Randy James	57443-010003	8059

7590 06/29/2004

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EXAMINER

FERGUSON, KEITH

ART UNIT	PAPER NUMBER
2683	10

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,467

Applicant(s)

JAMES ET AL.

Examiner

Keith T. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaud in view of Martinez (U.S. Patent 5,321,514) (newly cited reference, applicant IDS).

Regarding claim 13, Michaud discloses a wireless digital communication method (fig. 5 and col. 2 line 57 through col. 3 line 15) comprising; encoding message information (i.e. with data base information, and programming information) (col. 3 line 65 through col. 4 line 13) in the vertical blanking interval of an outgoing video signal transmitted from a first location (headend) (col. 3 lines 4-35, col. 3 line 65 through col. 4 line 13), said out-going video signal having a carrier (broadcast channel) (col. 3 line 65 through col. 4 line 13); receiving at a settop terminal 20 said out-going video signal (col. 3 line 65 through col. 4 line 13). Michaud differs from claim 13 of the present invention in that it does not explicit disclose

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transmitting a return signal on said carrier of said out-going signal. Martinez teaches TV transmitter/receiver for transmitting a return signal on said carrier of said out-going signal (claim 1 lines col. 30 lines 47-64 and claim 15 lines 52-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Michaud television with transmitting a return signal on said carrier of said out-going signal in order to wireless synchronize the television with the headend when purchasing a pay per view event through a wireless connection which speeds up connection with the headend when seeking the pay per view event, as taught by Martinez.

Regarding claim 14, Michaud discloses a transceiver (receiver/transmitter) (fig. 3 numbers 115 and 103) for use in a wireless digital communication system (fig. 1) comprising: a receiver for receiving message information encoded in the vertical blanking interval of a video signal having a carrier (col. 3 line 65 through col. 4 line 13). Michaud differs from claim 14 of the present invention in that it does not explicit disclose a transmitter for transmitting message information on said carrier of said video signal. Martinez teaches TV transmitter/receiver for transmitting a return signal on said carrier of said out-going signal (claim 1 lines col. 30 lines 47-64 and claim 15 lines 52-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Michaud television with transmitting a return signal on said carrier of said out-going signal in order to wireless synchronize the television with the headend when purchasing a pay per view event through a wireless connection which speeds up connection with the headend when seeking the pay per view event, as taught by Martinez.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith T. Ferguson whose telephone number is (703) 305-4888. The examiner can normally be reached on 6:30am-5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Keith Ferguson 
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June 16, 2004